

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

**Clerk's Minutes**

**Before the Honorable Chief Judge William P. Johnson**

**Case No.:** CR 19-564 WJ

**Date:** September 11, 2020

**Parties:** USA v. Lowell Begay

**Courtroom Clerk:** R. Garcia

**Court Reporter:** M. Loughran

**Interpreter:** N/A

**Type of Proceeding:** Appeal of Detention Order

**Place of Court:** Albuquerque

**Total time in Court:** 26 minutes

**Evidentiary Hearing:** No

**Attorneys Present for Plaintiff(s):**

David Patrick Cowen

**Attorneys Present for Defendant(s):**

Erlinda Johnson

**Proceedings:**

2:05 Court in video session; counsel enter appearances; PTSO Monica Hoyle enters appearance; Defendant present.

The Court notes the Defendant has signed a waiver of personal appearance and finds this video hearing is in the interest of justice and public safety.

PTSO advises Probation stands by its recommendation of detention.

The Court notes it has reviewed pleadings, Pretrial Services Report, and transcript of prior detention hearing before Judge Wormuth.

2:08 Ms. Johnson addresses the Court in support of appeal of detention order; request release to 3<sup>rd</sup> party custody of his mother w/conditions, including zero tolerance; argues client is not at risk for non-appearance/flight or danger to the community; weight of evidence is lacking; argues risk of COVID-19 while in custody.

The Court cites to transcript of prior detention hearing; notes failures to appear, DUIs, alcohol issues, and failures to complete alcohol treatment programs; what kind of confidence would the Court have in Defendant complying with its orders?

Ms. Johnson responds; argues conditions of release can be fashioned and client could receive treatment.

2:17 Mr. Cowen replies; request appeal be denied based on danger to the community and risk that Defendant will not appear or comply with the Court's orders; notes low numbers of COVID-19 at facility.

Ms. Johnson responds; suggest release to inpatient treatment program.

2:23 The Court questions Mr. Cowen re possible release to halfway house; Mr. Cowen responds.

The Court inquires why Defendant is house in Southern part of the state considering this is a Northern case.

Mr. Cowen responds noting possible transportation/logistical issues associated with his transfer into the state.

Ms. Johnson confirms Mr. Cowen's response re her client location; notes her client should be housed up North; will work with the Marshal to bring her client up North; requests that, if the Court is incline to deny the appeal, that it not issue a ruling until she can look into state court matter.

The Court advises it will alert counsel if it intends to grant the appeal and release the Defendant; notes if the Defendant is detained, the Court can see about having the Defendant moved to Santa Fe county so as to be closer to Ms. Johnson; notes the Defendant would have to follow Quarantined procedures if moved from one facility to another, but agrees Defendant needs to be closer to Albuquerque.

The Court will take the matter under advisement and again, if release is granted, will alert counsel.

2:31 Court in recess.